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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic report of States parties due in 1993

Iraq*

* For the third periodic report of Iraq, see CCPR/C/64/Add.6; for its consideration by the Committee, see CCPR/C/SR.1080 to SR.1082 and Official Records of the General Assembly, Forty-sixth session, Supplement No. 40, (A/46/40), paras. 618 to 656 as well as CCPR/C/SR.1106 to SR.1108 and Official Records of the General Assembly, Forty-seventh session, Supplement No. 40, (A/47/40), paras. 182-218.

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FOURTH PERIODIC REPORT ON IRAQ'S APPLICATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

1. Introduction

(a) The present report is submitted: pursuant to Iraq's commitment to give effect to the international human rights instruments to which it has acceded and its desire to continue the constructive dialogue that it had with the Human Rights Committee during the discussion of its third periodic report in July and November 1991;

(b) In view of the interdependence between civil and political rights, on the one hand, and economic, social and cultural rights, on the other, which makes it impossible to disregard the influence of civil and political rights on the economic and social situation in any country, as noted in resolutions of the United Nations General Assembly beginning with resolution 32/130 of 16 December 1977;

(c) Taking into consideration the fact that owing to the continued imposition of international sanctions on Iraq since the discussion of the third periodic report in spite of Iraq's compliance with the resolutions of the United Nations Security Council, the economic and social situation has been seriously afflicted;

(d) Bearing in mind the fact that this imbalance in the economic structure has led to a dangerous decline in the food security of citizens and has helped to create an environment in which the rates of all types of crime have risen, thereby forcing the State to take punitive measures of a deterrent, exceptional and provisional nature to protect the basic right of citizens to life, security and preservation of their property;

(e) Further bearing in mind the fact that the State has endeavoured to ensure that all citizens and residents of Iraq can continue to enjoy access to the items on the ration card at symbolic prices not exceeding 1 per cent of their commercial price, and that these items have helped to safeguard the right to life, which is recognized in article 6 of the International Covenant on Civil and Political Rights, and have prevented the spread of famine even though they do not meet the essential needs of citizens.

2. This report therefore reflects the central concern of the Iraqi State to protect and safeguard its citizens' right to life and survival by imposing the most severe penalties on anyone who violates this or other related rights.

3. The report reviews the extent to which the ongoing sanctions are violating the imperative principles laid down in the two International Covenants on Human Rights, in particular by preventing the Iraqi people from enjoying their own means of subsistence and disposing of their natural resources. Consequently, Iraq has been faced with a very limited number of difficult options to counter this violation of the basic principles of the Charter of the United Nations and the International Covenants on Human Rights and its main concern has focused on the right to survival, which includes

fulfilment of the requirements for the protection of the interdependent rights to life and to food, since non-realization of the right to survival leads to the extinction of all human rights.

4. In the light of the above, the report focuses on the manner in which Iraq is dealing with this violation of its citizens' right to survival and the legislative, administrative and judicial measures that it has taken to apply the provisions of the International Covenant in question.

Article 1

5. Iraq emphatically regards article 1 of the International Covenants on Human Rights as an imperative principle of international law since it relates to the right of peoples to exercise self-determination, to freely determine their political status without external interference, to dispose of their natural resources and not to be deprived of their own means of subsistence under any circumstances whatsoever.

6. In accordance with paragraph 5 of General Comment 12 of the Human Rights Committee (twenty-first session), the economic content of the right to self-determination entails corresponding duties for all States and the international community and States should indicate any factors or difficulties which prevent the free disposal of their natural wealth and resources contrary to the provisions of this paragraph and to what extent that affects the enjoyment of other rights set forth in the Covenant. Paragraph 6 of the same general comment stipulates that all State parties to the Covenant should take positive action to facilitate realization of and respect for the right of peoples to self-determination and such positive action must be consistent with the States' obligations under the Charter of the United Nations and under international law: in particular, States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination.

7. In the light of the General Comment on article 1, Iraq is still, as indicated in the third periodic report, the victim of a serious and ongoing violation of its right to self-determination owing to the following factors:

(a) Since the intervention by United States and coalition forces in northern Iraq in April 1991, three of Iraq's governorates (Dohuk, Arbil and Sulaimaniya) have been outside the central authority of the State. This constitutes a violation of Iraq's sovereignty and territorial integrity, which were recognized in all the Security Council resolutions;

(b) The imposition by the United States and its allies of a ban on flights by Iraqi aircraft north of the 36th parallel and south of the 32nd parallel without any legal justification or international decision constitutes a violation of Iraq's sovereignty over its airspace;

(c) The unilateral launching by the United States of rocket attacks on the city of Baghdad on 17 January 1992 and 26 June 1993 without any justification constitutes acts of aggression against Iraq;

(d) International sanctions are still being imposed on Iraq in spite of its fulfilment of its obligations under the terms of the resolutions of the United Nations Security Council. The ongoing sanctions constitute a violation of the Iraqi people's right to dispose of their natural resources in accordance with article 1 of the two International Covenants on Human Rights and the ban on the export of Iraqi petroleum, which is the country's main means of subsistence, is depriving the people of their own means of subsistence, which is contrary to article 1, paragraph 2, of the International Covenant.

8. In this connection, appropriate reference can be made to some international studies dealing with this subject and its international legal aspects. The last sentence of paragraph 2 of article 1 ("In no case may a people be deprived of its own means of subsistence") clearly constitutes an imperative principle that is binding on the international community, including the Security Council, even in regard to the measures taken under Chapter VII of the Charter of the United Nations, since the wording ("In no case") is absolute and applies to all circumstances.

9. Paragraphs 13 and 24 of the study published by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in document E/CN.4/Sub.2/1994/39 clearly emphasize the mandatory legal nature of the text of article 1, paragraph 2, with which the international community, including the Security Council, must comply since the Council has an obligation, under Article 24 of the Charter of the United Nations, to act in accordance with the purposes and principles of the United Nations, in which human rights are a primary factor.

10. In view of its mandatory legal nature, the right of peoples to dispose of their natural resources and not to be deprived of their own means of subsistence must be applied erga omnes and cannot be rendered inoperative under any circumstances whatsoever. Consequently, the measures taken by the Security Council under Chapter VII of the Charter should not affect the right of peoples to dispose of their natural resources, nor should they deprive any people of its own means of subsistence, since that is precluded by the wording "In no case", which applies even to international sanctions.

11. Moreover, Security Council resolutions 706 (1991), 712 (1991) and 986 (1995), which were ostensibly adopted in order to ensure humanitarian assistance for the people of Iraq, all entail a serious infringement of Iraq's sovereignty and territorial integrity and of its people's right to dispose of their natural resources. Consequently, Iraq has not responded to those resolutions in the form in which they appear and has affirmed its people's inalienable right to dispose of their natural resources and not to be deprived of their own means of subsistence.

12. The deprival of the Iraqi people of their own means of subsistence, which constitutes a violation of a mandatory principle of the International Covenant on Civil and Political Rights, has had highly detrimental effects on the human rights set forth in the same Covenant.

13. Owing to the Iraqi people's subjection to a severe lack of food security, imbalances appeared in social relations and crime proliferated to an extent that threatened the lives of citizens, as a result of which the State was forced to take punitive measures of a deterrent nature, as indicated in the introduction to this report. Details of the measures taken by the State will be found in this report under the relevant articles.

Article 2

14. Iraq has consistently taken administrative and judicial measures to promote and protect the rights set forth in the international human rights instruments to which it has acceded. Whenever Iraq accedes to an international human rights instrument, a legislative act to that effect is promulgated and published in the Official Gazette. The Iraqi Government has also published the texts of the international human rights instruments to which it has already acceded in a special edition of the Official Gazette (Al-Waqa'i al-Iraqiya) No. 3387 of 6 February 1992 in order to make it easier for the Administration and the judiciary to refer to the provisions of those instruments as a basis for the adoption of decisions and measures and with a view to informing citizens of their rights as set forth in those instruments.

15. In order to give institutionalized form to Iraq's concern for and monitoring of human rights issues, a specialized directorate known as the Human Rights Directorate has been established at the Ministry of Foreign Affairs. Its terms of reference, which were laid down in Ordinance No. 7 of 1992 promulgated by the Council of Ministers on 15 February 1992, are: to study international developments in the field of human rights and promote those rights in Iraq, to monitor the fulfilment of Iraq's obligations arising from its accession to the relevant international conventions, covenants and instruments concerning human rights, to ascertain the extent to which the national legislation is consistent with those instruments, to submit proposals to overcome the obstacles impeding their implementation and to encourage a number of national non-governmental organizations seeking to promote and protect human rights such as the Iraqi Human Rights Association which was established in 1961, the Lawyers' Union, the General Federation of Iraqi Women, the Federation of Jurists, the General Federation of Iraqi Youth and the National Federation of Iraqi Students and Youth.

16. The Iraqi judiciary is continuing to hear complaints submitted by individuals against government departments concerning practices or acts affecting their rights guaranteed under the Constitution, the law or the International Covenants on Human Rights. When the judgements handed down become final, they are put into effect by enforcement agencies as explained in the first periodic report. Examples of the judgements handed down after the discussion of the third periodic report are annexed to this report.* These judgements are of three types:

(a) Judgements convicting government departments of torture or violations of the right to life (annex 1);

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* Available for consultation in the files of the Secretariat.

(b) Opinions by the State Advisory Council concerning the inadmissibility of vesting the Council of Ministers with legislative authority in matters relating to taxes and dues (annex 2);

(c) Judgements handed down by the Administrative Court revoking administrative decisions taken by government departments (annex 3).

Their content will be reviewed in the relevant sections of this report to which copies of those judgements are annexed.

Article 3

17. After acceding to the Convention on the Elimination of All Forms of Discrimination against Women, Iraq submitted its first report, which was discussed at the twelfth session of the Committee on the Elimination of Discrimination against Women. Reference can be made to the records of the Committee's meetings in document A/48/38 in order to obtain an idea of the Committee's assessment of Iraq's endeavours to eliminate discrimination against women.

Article 4

18. In the third periodic report, we reviewed the devastating effects that the economic infrastructure suffered as a result of the war which the coalition States launched against Iraq and which deprived the Iraqi people of their basic means of subsistence, in addition to the heavy toll of human lives resulting from the random air and missile bombardments, which constituted a serious violation of an entire people's right to life as recognized in article 6 of the International Covenant. The persistent pursuit of the policy of imposing a comprehensive embargo on this defenceless people further aggravated the situation and proved highly prejudicial to the lives of civilians.

19. It is now five years since the adoption of Security Council resolution 661 on 6 August 1990 and four years since the adoption of resolution 687 on 3 April 1991 which, under the influence of some permanent members of the Security Council, confirmed those sanctions and made them subject to political considerations that were incompatible not only with the purposes and principles set forth in the Charter of the United Nations but also with international human rights standards. Those sanctions have caused tremendous harm to the Iraqi people and have violated their most basic human rights, particularly by depriving them of adequate food and medicine and of the right to dispose of their national wealth and resources, as a result of which the mortality rate among the most vulnerable groups of the civilian population, such as children, women and the elderly, has risen sharply. All this has happened in spite of the dubious legality of the sanctions, as mentioned in some studies and documents published by the United Nations itself which confirm that the policy of continuing sanctions has no legal basis or real justification.

20. In addition to the above, Iraq has been faced with a series of measures, some of which have been imposed unilaterally by one or more States without any international legal justification. For example, one of these measures denies

the international and constitutional legitimacy of Iraq's right to exercise sovereignty over the Autonomous Region, which has become a battlefield for mutually antagonistic Kurdish armed groups and the scene of incursions by the military forces of some neighbouring States under various pretexts, as a result of which its defenceless civilian population has suffered heavy losses of life and property. Moreover, contrary to the stipulations of international law, a large part of the northern and southern airspace of the Republic of Iraq has been declared an air exclusion zone. Consequently, these measures that have been imposed on Iraq constitute a fait accompli which has placed Iraq in a state of emergency in accordance with article 4 of the International Covenant on Civil and Political Rights. Although Iraq does not wish to officially proclaim a state of emergency, it is faced with a de facto state of emergency with all the detrimental effects that this has on human rights.

Article 5

21. In its previous periodic reports, Iraq reaffirmed its commitment to implement the provisions of the Covenant and, pursuant to that commitment, published the international human rights instruments, including the International Covenant on Civil and Political Rights, in a special edition of the Official Gazette (Al-Waqa'i al-Iraqiya, No. 3387 of 6 January 1992) with a view to facilitating their application by the authorities concerned.

Article 6

22. The first, second and third periodic reports gave a detailed account of the legislation promulgated to protect the right to life, to the application of which Iraq is still committed. They also referred to legislative developments in regard to the death penalty, the conditions and procedures for its imposition by the courts and the safeguards to be provided. In this report, we will be reviewing the legislative status of that penalty during the period between the third and fourth periodic reports, after which we will focus on the impact of the policy of continuing the imposition of international sanctions against Iraq on the right to life of an entire people, namely the Iraqi people.

The legislative status of the death penalty between the third and fourth reports

23. The circumstances arising from the continued imposition of the economic embargo for more than five years have had adverse consequences, including an increase in crime rates, particularly in respect of crimes of violence associated with theft, for reasons which, as criminologists are aware, are closely related to the neediness and indigence engendered by the comprehensive economic embargo imposed on Iraq. Persons whose finer sense of values has been disrupted are tempted to commit various offences in order to obtain material goods. The most serious of these offences are armed robbery, embezzlement and bribery. Consequently, in order to protect the public interest and the legal and economic security of society, the legislature was forced to adopt heavier penalties not as a strict matter of principle but primarily as a public deterrent to protect the right of society to security, which has become a form of struggle for survival, since the adoption of heavier penalties is not part of the criminal policy of the Iraqi legislature.

A perusal of the draft Iraqi Penal Code (which it was hoped to promulgate as soon as the situation became more stable) would confirm the reformative and educative theory underlying that enactment. That is the real penal policy of the Iraqi legislature, which would have been applied but for the exceptional circumstances through which Iraq is passing.

The effect of the policy of ongoing international sanctions against Iraq on the Iraqi people's right to life

24. If the human individual's right to life has become a principle of international law, it is befitting that the conscience of the international community should be stirred to protect the right to life of the entire Iraqi people, who are being subjected to virtual genocide by the weapon of the unjust comprehensive economic embargo which has been imposed on them for five years.

25. We wish to point out that, when referring to the effects of the international sanctions on Iraq, our sole aim is to explain the reasons, circumstances and purposes of their imposition which, in actual fact, has led to a serious and historically unprecedented violation of an entire people's right to life. It is noteworthy that the resolutions imposing sanctions on Iraq were characterized by particularities that were unprecedented in the history of the United Nations.

26. An objective review helps to identify the real purpose of the imposition of sanctions and the deliberate political insistence on their perpetuation in spite of their devastating impact on all aspects of the life of Iraqi society, as can be observed and heard by the international community. We regard them, unfortunately, as a new means of genocide of an entire people, namely the Iraqi people, in view of the particularities by which those sanctions are characterized, especially their undeclared and changing aims. It is evident that resolution 687 (1991) radically changed the aims for which the embargo was imposed, as specified in resolution 661 (1990), in order to ensure Iraq's acceptance of resolution 660 (1990) concerning its withdrawal from Kuwait. Once that had been done, resolution 661 (1990) should have ceased to have further effect. However, resolution 687 (1991) introduced totally new aims and mechanisms that were subject to purely political considerations and this had adverse effects on the right to life which forms the subject of article 6 of the International Covenant on Civil and Political Rights. Paragraph 22 of resolution 687 (1991) referred to measures of a technical nature that Iraq was required to take and on the completion of which the embargo on its oil exports would be lifted. However, even though Iraq has fulfilled its obligations under that paragraph, the embargo remains in force. It is obvious that the mechanism for the application of paragraph 22 was predominantly of a political rather than a truly technical nature and was subject to the whims of the United States of America. Whenever Iraq seemed to be on the verge of fulfilling the requirements of paragraph 22, its endeavours were aborted by the periodic review under the terms of paragraph 21, since this question was governed by political rather than technical considerations.

27. Accordingly, it can confidently be said that the international sanctions imposed on Iraq cannot be discussed in isolation from the economic, political

and petroleum-related aims of the United States strategy since, in the final analysis, they are merely an instrument with which political pressure can be brought to bear in order to influence the people's political options, including their right to self-determination and their right to determine their political status, through starvation which, after more than five years of large-scale devastation, has cost the lives of hundreds of thousands of Iraqi children, women and elderly persons. The widespread food shortages affecting the majority of the people have assumed genocidal proportions and constitute one of the most serious forms of violations of the right to life of an entire people who are waiting hopefully for the international conscience to awaken and grant them the right to enjoy life.

28. In this context, we wish to refer to General Comment 6, which was adopted by the Human Rights Committee at its sixteenth session and which stipulated that the need for protection against deprivation of the right to life makes it necessary for States to take positive measures. At the present time, the most urgent need is for the States parties to take every possible measure to reduce the child mortality rate and increase life expectancy, particularly by eliminating malnutrition and the spread of epidemics. The consequences of the ongoing embargo on Iraq constitute a serious violation of the right to life, as indicated in the above-mentioned general comment. In fact, the embargo has affected the State's assumption of its responsibilities towards its citizens, particularly in regard to reduction of the child mortality rate and the treatment of malnutrition, as a result of which there has been a sharp increase in the number of deaths and cases of malnutrition among the population.

29. The most significant legislative developments in regard to the principle of the right to life, as set forth in article 6 of the Covenant, have taken place in two main fields: the promulgation of a number of enactments and decrees in which the legislature was forced to increase the penalties for a number of offences that are highly prejudicial to the security and safety of society with a view to creating a public deterrent and reducing the incidence of those offences. As soon as this aim was achieved in a fairly satisfactory manner, the legislature embarked on the second legislative development, namely the promulgation of general amnesty decrees that led to the suspension or commutation of death penalties, as will be seen below.

30. The main legislative changes involving heavier penalties are as follows:

(a) The death penalty was prescribed for the theft of vehicles under the terms of Revolution Command Council Decree No. 13 of 1992, which was published in the Official Gazette No. 3389 of 20 January 1992;

(b) The death penalty was prescribed for the offence of forging Iraqi or foreign currency or bonds circulating in Iraq and also for the offence of smuggling them into or putting them into circulation in Iraq if this undermined confidence or if these offences were committed by a gang consisting of more than three individuals (Revolution Command Council Decree No. 9 of 1993, which was published in the Official Gazette No. 3457 of 10 May 1993);

(c) The penalty of a discretionary fine together with imprisonment, as prescribed in the Penal Code and the special legislation, was abolished under the terms of Revolution Command Council Decree No. 31 of 1994 which was published in the Official Gazette No. 3503 of 28 March 1994;

(d) The penalty of amputation of the hand was prescribed for offences of theft with aggravating circumstances and the death penalty was prescribed if the perpetrator of such an offence was carrying a visible or concealed weapon or if the offence led to loss of life (Revolution Command Council Decree No. 59 of 1994, published in the Official Gazette No. 3514 of 13 June 1994). It is noteworthy that the provisions of this decree were amended by Decree No. 114 of 1994, published in the Official Gazette No. 3526 of 5 September 1994, which abolished the penalty of amputation of the hand and prescribed the death penalty in cases, other than those mentioned above, in which the perpetrator was a member of the armed or internal security forces or a government employee;

(e) The death penalty was prescribed if the competent court could not find any reason to mitigate the penalty in the case of an accused person over 18 but under 20 years of age (Revolution Command Council Decree No. 86 of 1994 published in the Official Gazette No. 3520 of 25 July 1994). Under the terms of article 79 of the Penal Code, this penalty had not previously been applicable to persons in that age group;

(f) The penalty of life imprisonment or amputation of the hand was prescribed for anyone who falsified an official document in such a way as to obtain illicit benefit or deprive another person of enjoyment of his rights (Revolution Command Council Decree No. 92 of 1994, published in the Official Gazette No. 3521 of 1 August 1994);

(g) The death penalty was prescribed for anyone who smuggled outside Iraq a motor vehicle or a device used for purposes of drilling or embanking (Revolution Command Council Decision No. 95 of 1994, published in the Official Gazette No. 3521 of 1 August 1994);

(h) The death penalty was prescribed for anyone heading a group established for the purposes of pimping referred to in article 1 of the Anti-Prostitution Act No. 8 of 1988 (Revolution Command Council Decree No. 118 of 1994, published in the Official Gazette No. 3526 of 5 September 1994);

(i) The death penalty was prescribed for anyone who falsified a military service record book or document (Revolution Command Council Decree No. 179 of 1994, published in the Official Gazette No. 3532 of 17 October 1994);

(j) The death penalty was prescribed for anyone who engaged in fraudulent investment acts by receiving money from others in return for declared or secret interest exceeding the legally stipulated maximum if such acts undermined the economy or if they were committed in wartime or during the embargo imposed on Iraq (Revolution Command Council Decree No. 16 of 1995, published in the Official Gazette No. 3552 of 27 February 1995).

31. General amnesty decrees granting pardons or commutation of sentences to criminals sentenced to death:

(a) Revolution Command Council Decree No. 61 of 1995, published in the Official Gazette No. 3574 of 31 July 1995, stipulated that death sentences imposed before the entry into force of the amnesty promulgated thereunder would be commuted to life imprisonment;

(b) Revolution Command Council Decree No. 64 of 1995, which was published in the Official Gazette No. 3575 of 7 August 1995, granted a general amnesty to all Iraqis living in or outside Iraq who had committed and been tried for politically motivated offences. However, this amnesty did not apply to all offences, since it excluded crimes involving espionage, theft of State property or rape.

Article 7

32. While re-emphasizing the information provided in Iraq's previous periodic reports on the subject of article 7, we will review this issue in the light of General Comment 20 made by the Committee at its forty-fourth session in 1992. The position adopted by Iraqi law and jurisprudence is that all forms of the practice of physical and mental torture must be prohibited, condemned and punished. This legislative and judicial approach is illustrated by the following Iraqi court judgements which actually applied the above-mentioned principles:

(a) Decision No. 3687/1992 handed down by the Criminal Division of the Court of Cassation on 16 February 1992 in which two policemen were sentenced, under article 410 of the Penal Code, to 10 years' imprisonment and ordered to pay compensation to the relatives of the victim after being found responsible for his death while he was being interrogated by them (annex 1, para. 1 (b));

(b) Judgement No. 294/B/1993 of the Karrada Court of First Instance in which the victim's mother was awarded damages in respect of physical and mental suffering due to her son's subjection to torture by a police officer and a police non-commissioned officer while he was being held in their custody (annex 1, para. 1 (c)).

Article 8

33. Iraq's previous three periodic reports clearly stated that all traditional and contemporary forms of slavery were prohibited under Iraqi law. Those reports also listed all the conventions to which Iraq had acceded concerning the prohibition of slavery, the slave-trade, the traffic in persons, prostitution and forced labour (with the exception of correctional and rehabilitative forms of labour at social reform institutions).

34. Compulsory military service is a sacred duty for every adult male capable of defending the people and the country.

Article 9

35. Iraq's previous periodic reports indicated that the Constitution explicitly states that no one may be arrested, detained, imprisoned or searched except as provided by law. The Penal Code and the Code of Criminal Procedure further consolidated this right through penal and procedural texts to which reference was made in the previous reports.

36. In keeping with the stern position that the Iraqi judiciary has adopted in regard to these violations, on 13 August 1994 the Criminal Division of the Court of Cassation handed down decision No. 3327/1994 ratifying a judgement of the Diyala Criminal Court in which a police officer was sentenced to one year's imprisonment and ordered to pay damages, in respect of physical and mental suffering, to a person whom he placed in detention without any legal justification (annex 1, para. 1 (a)).

37. The eagerness of the Department of Criminal Justice in Iraq to protect the rights and freedoms of citizens is demonstrated by its formulation of an ambitious plan, which is already being put into operation, to confine investigative authority to the judicial investigators, who are employees of the Ministry of Justice working in administrative and technical contact with examining magistrates, with a view to restricting the investigative role of the police within the narrowest limits required by exceptional needs. Under this system, effective measures have been taken to appoint judicial investigators at the Ministry of Justice within the framework of a large-scale plan to recruit judicial investigators and improve their standard of competence through training courses organized by the Judicial Academy. To that end, the Code of Criminal Procedure (Act No. 23 of 1971) was amended by Act No. 10 of 1995 which stipulated that, before assuming his official duties for the first time, every investigator must attend a special course at the Judicial Academy. The duration of this course amounts to not less than three months if the trainee holds a degree in law and not less than one calendar year if the trainee holds a diploma in legal administration, which can be obtained after two years of study following completion of the stage of preparatory education.

38. The following General Amnesty Decrees have been promulgated since the preparation of the third report:

(a) Under the terms of Revolution Command Council Decree No. 232 of 1992, published in the Official Gazette No. 3423 of 14 September 1992, all Iraqi military personnel from the southern governorates (Dhi Qar, Basra, Misan and Qadisiya) who had been duped into deserting were granted a general amnesty in respect of any legally punishable act committed during the period of their desertion, provided that they gave themselves up to the State authorities or the armed forces. This amnesty, which did not apply to perpetrators of crimes of murder or rape, remained in effect from 23 August to 24 September 1992;

(b) Under the terms of Revolution Command Council Decree No. 20 of 1993, published in the Official Gazette No. 3446 of 22 February 1993, deserters from the district of Khanaqin were granted a general amnesty and all legal proceedings against them were permanently dropped except in cases involving murder or rape;

(c) Revolution Command Council Decree No. 43 of 1995, published in the Official Gazette No. 3561 of 1 May 1995, stipulated as follows:

(i) Iraqi prisoners (adult convicts) shall be exempted from the remaining period of their sentence if they have served 25 per cent thereof;

(ii) Iraqi detainees (juvenile convicts) shall be exempted from the remaining period of their detention in juvenile rehabilitation centres if they have served 20 per cent of their period of detention;

(iii) This amnesty shall not apply to persons convicted of offences involving dishonourable conduct or murder, nor shall it apply to repeated offenders.

This amnesty covered 3,841 prisoners in the Adult Reform Sector and 2,465 detainees in the Juvenile Reform Sector;

(d) Revolution Command Council Decree No. 61 of 22 July 1995, published in the Official Gazette No. 3574 of 31 July 1995, stipulated as follows: prisoners (adult convicts) shall be exempted from the remaining periods of their sentences in the following cases:

(i) Anyone who has served 3 years of his sentence if he was sentenced to more than 10 years' imprisonment;

(ii) Anyone who has served 2 years of his sentence if he was sentenced to a term of not more than 10 years' imprisonment;

(iii) Anyone who has served one year of his sentence if he was sentenced to a short term of imprisonment;

(iv) Detainees (juvenile convicts) shall be exempted from the remaining periods of their sentences if their relatives undertake to ensure their good conduct;

(v) Persons sentenced to amputation of the hand shall be exempted from that penalty if they have spent two years in custody or detention.

The number of persons who benefited from this decree amounted to 11,557 prisoners and 1,224 detainees;

(e) Revolution Command Council Decree No. 64 of 30 July 1995, published in the Official Gazette No. 3575 of 7 August 1995, granted a general amnesty to the perpetrators of political offences, regardless of whether they had been sentenced to death or to custodial penalties in the manner explained above. The number of prisoners who benefited from this decree amounted to 573;

(f) Revolution Command Council Decree No. 60 of 1995, published in the Official Gazette No. 3576 of 14 August 1995, granted a general amnesty to Egyptian prisoners and detainees in respect of the remaining periods of their sentences. It also halted the legal proceedings instituted against Egyptians accused of offences involving assault, bribery, refusal to provide the authorities with information, insults directed against the symbols of the nation, the people and the country or the offences specified in the Residence of Aliens Act. The number of Egyptian prisoners who benefited from this decree amounted to 26;

(g) Revolution Command Council Decree No. 69 of 1995, published in the Official Gazette No. 3579 of 4 September 1995, granted a general amnesty to Egyptian prisoners and detainees who had been convicted of economic offences or acts of theft or attempted theft as defined in article 446 of the Penal Code. This decree also permanently halted the legal proceedings that had been instituted against Egyptians accused of those offences and ordered their release unless they were being held on other charges. The number of Egyptian prisoners who benefited from this decree amounted to 45.

Article 10

39. While drawing attention to the statements made concerning article 10 of the Covenant in the previous reports, we will be reviewing the information in this connection in the light of General Comment 20 adopted by the Committee at its forty-fourth session in 1992.

40. Detainees are not subjected to medical experiments of any type whatsoever. The places in which detainees are confined meet the health and nutritional requirements and no one can be placed in detention except as provided by law. We have already referred to the stern position of the judiciary in regard to any violation of this principle during our discussion of article 9 of the Covenant. These places of detention are subject to inspection by the Department of Public Prosecutions which, as indicated in detail in Iraq's third periodic report, has issued instructions to the effect that the competent member of the Department of Public Prosecutions must make at least two inspection visits every month to ascertain that the law is being applied in a proper manner. The local medical officer of the district in which the detention centre is situated is also required to visit the centre to ascertain that the detainees are in good health and that the requisite sanitary standards are being met at the centre.

41. The laws, regulations and instructions concerning places of detention do not entail any discrimination on grounds of colour, language, religion, origin or social status. However, adult males, females and juveniles are held in separate places of detention for well-known penal and social reasons to which reference is also made in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (paras. 1-4 of the General Comment).

42. The principle that the accused must be presumed innocent until proved guilty at a lawful trial is firmly rooted in the Constitution and criminal law. Accordingly, places of detention are separate and different from

prisons, each of the two categories being governed by different legal provisions as explained in previous reports and further clarified in this report (para. 9 of the General Comment).

43. The first stage of rehabilitation in the Department of Reform (Prisons) consists in the process of classifying convicts in order to give the reform and rehabilitation programmes the greatest chance of success. Chapter VII of the Department of Social Reform Act No. 104 of 1981, as amended by Act No. 8 of 1986, lays down the rules and procedures for the classification of prisoners. Article 17 of the Act makes provision for the establishment of a "reception and identification centre" in each social reform institution (paras. 10-12 of the General Comment).

44. Under article 18 of the above-mentioned Act No. 104, as amended, each prisoner has the right to work, within the limits of his capabilities, with a view to furthering his rehabilitation and obtaining vocational training so that he will be able to acquire adequate skill to engage in that type of work after completing his prison sentence. Article 19 emphasizes that this work, although intended to further the process of education, reform and rehabilitation, may be performed either inside the prison or in external government institutions and must be remunerated by an appropriate wage. In actual fact, this enables the convict to remain in contact with the outside world, an aim which is also achieved by article 35 of the above-mentioned Act under which the convict is granted periods of home leave amounting to not more than five days every three months subject to various conditions such as, in particular, good conduct. Convicts are also permitted to send and receive letters (paras. 10-12 of the General Comment).

45. The Standard Minimum Rules for the Treatment of Prisoners are applied in the reform programmes at social reform institutions in accordance with Act No. 104 of 1981, as amended, article 41 of which stipulates that any prisoner has the right to submit a complaint to the Director-General of the Department of Social Reform concerning ill-treatment or any violation of his rights and the Director-General must complete the investigation of such complaints within seven days (paras. 5-7 of the General Comment).

46. Juveniles are subject to special provisions set forth in a separate enactment known as the Juvenile Welfare Act No. 76 of 1983, which emphasizes the following principles:

(a) The phenomenon of juvenile delinquency must be curbed through the introduction of an integrated system based on scientific principles which, far from being confined to dealing with the juvenile after his delinquency, should endeavour to prevent him from lapsing into delinquency and ensure his subsequent welfare after the expiration of the term of the measure taken against him in order to ensure that he does not relapse into crime;

(b) Article 3 of the Juvenile Welfare Act defines a "juvenile" as a person over 9 but under 18 years of age. This stage is divided into two phases: during the first phase, from the age of 9 to 15, the juvenile is known as a "young person" while, during the second phase, from 15 to 18 years of age, the juvenile is known as an "adolescent". The importance of this classification lies in the fact that young persons are subject to measures

that are less severe than those applicable to adolescents. Each category has a special school in which the measures imposed are applied; the first is known as the "young persons' rehabilitation school" and the second is known as the "adolescents' rehabilitation school". It is noteworthy that the institutions for the administration of juvenile criminal justice are totally separate from those for the administration of adult criminal justice. In fact, there is a special police force and courts of inquiry for juveniles, in addition to an office for the study of personality and an office, staffed by sociologists, psychologists and physicians, to monitor conduct;

(c) The measures taken against juveniles when they commit an offence are reformative and rehabilitative measures of an educative and corrective nature based on the reduced responsibility of juveniles. The principal measures are:

(i) Issuing the juvenile with a warning at the hearing;

(ii) Delivering the juvenile into the custody of his guardian or one of his relatives on the basis of an undertaking to ensure his proper upbringing and good conduct;

(iii) Imposition of a fine;

(iv) Placement of the juvenile on probation;

(v) Placement of the juvenile in a school for delinquent young persons or adolescents, depending on his age group as defined above.

47. It is noteworthy that the periods of probation and placement in a school for delinquent young persons or adolescents vary in accordance with the gravity of the offence committed. They are specified in detail in articles 72-98 of the Juvenile Welfare Act. The most significant developments in regard to the treatment of prisoners are as follows:

(a) The promulgation of the above-mentioned amnesty decrees;

(b) The promulgation of the Female Detainees' Reform Ordinance No. 4 of 1991 and Directive No. 3 of 1991 concerning the reform of prostitutes by securing suitable employment for them, with assistance from social and popular institutions and organizations, on the completion of their periods of detention;

(c) The establishment of offices to cater for the subsequent welfare of ex-convicts by monitoring their behaviour and conduct after they have completed their sentences with a view to surmounting the difficulties that impede their social reintegration and averting their relapse into crime;

(d) The establishment of a Research and Studies Unit in the Planning Section of the Adult Reform Department to conduct scientific and field research and studies on the reform of prisoners.

Article 12

48. In the previous periodic reports, we indicated that, except where otherwise required by the organizational procedures for regional and town planning, Iraqi law places no restrictions on liberty of movement or freedom to choose one's residence.

49. Although the exceptional circumstances necessitated the imposition of restrictions on freedom of travel by Iraqis, since 15 January 1991 travel outside Iraq has been permitted to persons holding passports issued in accordance with the laws and regulations in force.

Article 13

50. The Residence of Aliens Act No. 118 of 1978 regulated the entry of aliens into Iraq and the conditions under which they could reside therein or be expelled therefrom, as well as the procedures to be followed by the government authorities in regard to the rights of aliens and the procedures to be followed by aliens residing in or passing through Iraq. This Act specified the conditions for the residence of aliens and the extension of their residence permits, subject to the requirement that the competent authorities must be notified of any change in their place of residence. Provided that those conditions are met, freedom of movement and residence is guaranteed to foreigners within the limits of the law and on the understanding that they must not violate the statutory regulations laid down in special legislative enactments, such as the prohibition of entry into specific areas, including military zones and archaeological sites, etc.

51. Since no noteworthy amendments have been made to the legislation governing the residence and expulsion of aliens since the first periodic report, reference can be made thereto if further information is required.

Article 14

52. Attention is drawn to Iraq's first, second and third periodic reports which contained comprehensive details concerning Iraqi legislation and its practical application. Appropriate reference can also be made to Iraq's reply to the extensive questionnaire on the subject of the right to a fair trial which was annexed to note G/SO 214 3-3-16 of 22 November 1991 from the Centre for Human Rights sent in accordance with Economic and Social Council resolution 1991/28. We also wish to summarize below the most important information concerning this article in the light of General Comment 13 (21) adopted by the Human Rights Committee.

53. In the previous periodic reports, we gave an account of the guarantees concerning the independence of the judiciary and the judicial immunities provided for in articles 63 and 64 of the Constitution and in the Organization of the Judiciary Act No. 160 of 1979, as amended. Under the Constitution and the legislation in force, the right to seek legal remedy is guaranteed to all citizens without any discrimination on grounds of sex, race, language, social origin or religion. The Constitution and the law also guarantee freedom and other rights concerning defence and the public nature of court hearing and proceedings which are regulated by the provisions of the Act.

54. With regard to the Committee's general comment to the effect that periodic reports should explain the rules to ensure a fair trial in criminal and civil cases, the following should be noted.

55. Concerning the principal components of the concept of the right to a fair trial in criminal law:

(a) When discussing articles 6, 7 and 9 in this and previous periodic reports, we have referred to some aspects of this concept which necessitate guarantees concerning the independence of the judiciary and judicial immunities for all types of criminal and civil courts. In this connection, we wish to emphasize that the basic criminal principles are both constitutional and legal, since they are embodied not only in the law but also in the Constitution. The most important principles are the presumption that the accused is innocent until proved guilty at a lawful trial, the need for a legal definition of crime and punishment, the stipulation that a penalty can apply only to an act which constituted a legally designated offence at the time of its commission, and the inadmissibility of the imposition of a penalty heavier than that applicable at the time of the commission of the act;

(b) With regard to the rules of criminal procedure, this and previous reports also give a detailed account of the rules and procedures of the criminal courts, especially those concerning the rights of accused persons vis-à-vis the powers of the investigating authorities to search, arrest and detain and, in particular, the right of the accused to appear in court;

(c) The Code of Criminal Procedure contains detailed provisions concerning investigation and examination, as well as the procedures governing trials, sentencing, appeals and the highest bodies with which appeals can be lodged. It specifies, inter alia, the rights of the accused at all these stages, including those concerning the procedures for the trial of persons lacking legal capacity in accordance with articles 230-232 of the Code of Criminal Procedure, viewed in conjunction with the provisions of article 60 of the Penal Code. The Code also specifies the rights of accused persons in regard to trial in absentia, their right to object thereto (arts. 243-248 of the Code of Criminal Procedure) and the rules governing the jurisdiction of the various courts (arts. 53-55 and 141 of the Code of Criminal Procedure).

56. The military courts are competent to hear offences committed by a particular category of persons, namely military personnel who are subject to the Code of Military Justice (Act No. 13 of 1940), as amended, and the Code of Military Trial Procedure (Act. No. 24 of 1941), as amended. The Code of Military Justice and the Code of Military Trial Procedure are based on the Penal Code and the Code of Civil Procedure, to which reference is made whenever no relevant provision is found in military law. Consequently, military court procedures are very similar to those applied by the civil courts, particularly in regard to the right of accused persons to a defence and their right to lodge appeals against court judgements. It should be borne in mind that the military courts exercise jurisdiction only in cases in which the Code of Military Justice applies, namely cases involving offences in which all the parties involved are military personnel on military premises. Hence,

any civilian party or person involved in a military case is subject to the jurisdiction of the civil courts and to the provisions of the civil rather than the military penal code.

57. With regard to the special courts, the promulgation of Revolution Command Council Decree No. 140 of 19 January 1991, which abolished the Revolutionary Court and transferred its fields of jurisdiction to the ordinary courts, was intended to herald the disappearance of every type of special court. However, the continuation of the exceptional and abnormal circumstances, which has affected all aspects of life in the country owing to the long duration of the economic embargo which caused widespread economic damage, had an adverse effect on public security and social stability owing to the rise in crime rates, particularly those relating to economic offences and offences against property, such as theft associated with violence and terrorism. This induced the legislature to take some exceptional measures to curb the crime wave, within the context of the legitimate right to protect the security and safety of society, by forming a Special Court, presided over by a civil court judge, in which defendants are prosecuted by a public prosecutor from a civil court. This Special Court applies the Penal Code and the Code of Criminal Procedure and exercises jurisdiction only in the following cases:

(a) Cases referred to it by the Minister of the Interior;

(b) Cases of vehicle theft associated with murder or violence;

(c) Offences committed by gangs which steal vehicles and smuggle them out of the country;

(d) Highway robbery;

(e) Offences which, by law, must be referred to the Special Court;

(f) Economic offences which are referred to the Special Court by the Office of the President of the Republic.

58. The principal components of the right to a fair trial under civil law are as follows:

(a) The Code of Civil Procedure (Act No. 83 of 1969), as amended, the Law of Evidence (Act No. 107 of 1979), as amended, and the Law of Enforcement (Act No. 45 of 1980), as amended, are among the basic laws containing all the rules governing pleading and the enforcement of judgements handed down by all the civil courts. They cover the stages of institution of proceedings, notification, trial, judgement, appeal and enforcement. Family matters and the mutual rights of family members are governed by the Personal Status Act No. 188 of 1959, as amended, and the Civil Status Act No. 65 of 1972, as amended;

(b) Under the Constitution and the law, all citizens, without distinction, have a guaranteed right to seek legal remedy before the courts, which must endeavour to settle cases in an expeditious manner. All citizens also have a guaranteed right to challenge judgements at one or two levels of appeal and cassation. We are annexing to this report a number of civil court

judgements in which various government departments were ordered to pay compensation to individuals. We are also annexing a number of rulings by the Administrative Court annulling many administrative decisions taken against the individuals who challenged them before that court.

59. The following are examples of the annexed judgements that were handed down by the civil courts and ratified by the Court of Cassation:

(a) Decision No. 262/1991, handed down by the First Division of the Court of Cassation on 16 February 1992, ordering the Minister of Defence, in his official capacity, to pay compensation in respect of a traffic accident in which a military vehicle travelling in a military convoy collided with and destroyed a civilian vehicle;

(b) Decision No. 754/755/1992, handed down by the Third Civil Division of the Court of Cassation on 18 May 1992, ordering the Minister of Health, in his official capacity, to pay compensation in respect of negligence committed by his subordinates, medical staff at a government hospital, which led to the death of the wife of the plaintiff claiming compensation.

60. The following are examples of the annexed rulings of the Administrative Court annulling administrative decisions taken by a number of ministries and government departments on the basis of appeals lodged by the citizens concerned:

(a) Decision No. 69 of the State Advisory Council, taken by its Bureau on 26 November 1995, ratified Administrative Court ruling No. 49 of 12 November 1995 annulling a decision by the Mayor of Baghdad to place a citizen in administrative detention and awarding compensation to the citizen concerned;

(b) Administrative Court ruling No. 22/1994 of 7 May 1994 annulled an administrative decision taken by the Director-General of the Department of Taxation after it had been proved that the appellant had not evaded tax;

(c) Administrative Court ruling No. 48/1994 of 20 August 1994 annulled an administrative decision taken by the Mayor of Baghdad and ordered the issue of a discharge and a passport to the appellant.

61. Finally, the principal developments concerning the subject-matter of article 14 of the Covenant are as follows:

(a) Continuing material and moral support is being given to judges, members of the Department of Public Prosecutions, judicial investigators and officers of the court. The salaries of judges, in particular, have repeatedly been increased in response to the constantly rising economic inflation;

(b) Revolution Command Council Decree No. 162 of 1992, published in the Official Gazette No. 3411 of 22 June 1992, authorized the extension, by presidential decree, of the period of service of judges who were due for retirement on reaching the legal age-limit;

(c) Act No. 4 of 1993 amending the Organization of the Judiciary Act No. 160 of 1979 (as amended), which was published in the Official Gazette No. 3451 of 29 March 1993, authorized the assignment to the Court of Cassation of judges in grade I who met the conditions for appointment thereto, subject to approval by the Office of the President of the Republic on the basis of a proposal by the Minister of Justice;

(d) Act No. 10 of 1994 amending the Organization of the Judiciary Act authorized the holding of a sub-plenary session of the Court of Cassation presided over by the President of the Court, or his most senior deputy in the event of his absence or a legal impediment to his participation, provided that it was attended by not less than six of its judges;

(e) Act No. 9 of 1992 amending the Code of Criminal Procedure (Act No. 23 of 1971, as amended), contained a number of principles, the most important of which were as follows:

(i) The Court of Cassation shall accept pleas from the accused and the parties concerned at any stage prior to the delivery of its judgement in the case;

(ii) The Court shall keep open the file of any case in which it handed down, in absentia, a death sentence or a sentence of imprisonment for life or for a lesser term until the person sentenced gives himself up or is apprehended, at which time he shall be retried in accordance with the law;

(iii) Judgements in absentia ordering compensation and payment of legal fees may be enforced at the time of their delivery provided that the civil claimant submits a financial guarantee or undertaking, unless the Court exempts him therefrom. In the event of enforcement of a judgement in absentia ordering the payment of compensation or legal costs, the Court may order the reimbursement of all or of some of the amounts received when the defendant is tried in his presence;

(iv) The Adult or Juvenile Reform Department or the Department of Public Prosecutions may request the competent court to consider releasing a convicted person on probation, even if he does not submit such a request himself, if he meets the legally stipulated conditions. The court is legally empowered to consider such a request;

(f) Act No. 10 of 1995, which amended the Code of Criminal Procedure, and Revolution Command Council Decree No. 55 of 1995 stipulated as follows:

(i) A judicial investigator who has graduated from a faculty of law shall not be permitted to assume his investigative duties until he has attended a special three-month course at the Judicial Academy in order to receive specialized scientific training in investigative techniques;

(ii) Persons who have graduated from the legal administration department of a technical college (which requires a two-year period of study following the completion of preparatory education) may be appointed only after attending a special course at the Judicial Academy for a period of a full calendar year (12 months) in order to receive theoretical and practical training in investigative work.

Article 15

62. The previous periodic reports gave a detailed explanation of this principle and emphasized that article 21 (b) of the Constitution stipulated that there was no crime or punishment except as defined by law, that a penalty could be imposed only in respect of an act that was legally designated as an offence at the time of its commission, and that it was not permissible to impose a heavier penalty than that applicable at the time of commission of the offence. This constitutional principle is reflected in detailed legal provisions contained in articles 1-5 of the Penal Code and is consistently applied in court judgements.

63. The only exception to this general rule can be found in article 2, paragraph 3, of the Penal Code which stipulates that the law can be applied retroactively to offences committed at an earlier date if such would be in the best interests of the accused, for example in the case of new legislation decriminalizing the offence committed or reducing the penalty therefor.

Article 16

64. We wish to supplement the information provided in the previous periodic reports by indicating that, under the terms of article 34, paragraph 1, of the Civil Code, the personality of a human being begins when he is born live and ends when he dies. Accordingly, a human being is recognized as a person before the law when he is born live and this entitles him to exercise a number of rights under civil and criminal law. His civil rights include the recognized right to enjoy legal status as a person, which gives rise to several other rights such as, in particular, the right to nationality (art. 37 of the Civil Code).

65. It is noteworthy that legal personality may sometimes be implicitly recognized before birth in the case of a foetus, which is entitled to inherit and to receive legacies and donations provided that it is born live (art. 68 of the Personal Status Act).

66. Legal personality may also sometimes be extinguished without proof of actual death if, under the terms of a court judgement, a missing person whose disappearance is probably attributable to his death is presumed dead after a legally specified period of time (art. 86 (c), para. 1, of the Personal Status Act and art. 93 of the Welfare of Minors Act No. 78 of 1980) in order to establish pertinent aspects of his legal status so that legitimate rights and obligations will not be left in suspense pending the solution of a mystery that might never be solved.

Article 17

67. Articles 22 and 23 of the Constitution cover the principles set forth in article 17 of the Covenant as well as the content of the Committee's General Comment 16 (32).

68. Article 22 (a) of the Constitution stipulates that human dignity must be safeguarded and the practice of any form of physical or mental torture is prohibited. Paragraph (b) of the same article further stipulates that no one may be arrested, held in custody, imprisoned or searched except in the manner provided by law. Under the terms of paragraph (c), homes are inviolable and may be entered or searched only in accordance with the legally specified procedures. Under the terms of article 23, the confidentiality of postal, telegraphic and telephone communications is guaranteed and their content may be disclosed only if such is required by the exigencies of justice and security and only within the limits and in accordance with the procedures specified by law.

69. In order to protect privacy from any infringement or violation, article 16 of the Publications Act No. 206 of 1968 stipulated that the owner of a publication must publish an apology, free of charge, in the same place in which he published material prejudicial to the rights of another person. Furthermore, article 28 of that Act prescribed a penalty of up to 30 days' imprisonment or a fine if the published material was defamatory. If the published material contained calumny or abuse, the provisions of articles 433-436 of the Penal Code are applicable. Article 428 of the same Act also designated any infringement of the inviolability of homes or of the property of others as a punishable offence, while article 328 prescribed the penalties for any public official or employee of the PTT departments who opened or destroyed or disclosed the confidential contents of a letter or telegram that was entrusted to him or delivered to the said departments. It is noteworthy that the imposition of those criminal penalties does not preclude compensation, in accordance with articles 204 and 205 of the Civil Code, for the material and moral detriment arising from such acts.

Article 18

70. The previous periodic reports quoted the provisions of the Constitution that guarantee freedom of religion and belief, freedom of religious observance and freedom to belong to the religion of one's choice in a manner consistent with the provisions of the law. This is reflected in the criminal law under which freedom to exercise these rights is guaranteed and protected against any acts prejudicial to their free exercise or to the sacred nature of those beliefs.

71. Article 372 of the Penal Code, as amended by Act No. 2 of 1995, stipulates that it is a punishable offence for anyone to publicly attack, in any manner, the beliefs of a religious community, denigrate its observances, disrupt its rituals or destroy, deface or desecrate a symbol or a building intended for the celebration of its observances, including any form of abusive or derogatory mention, in public, of the name of God.

Article 19

72. Reference can be made to the content of the previous periodic reports. We also wish to emphasize that article 26, paragraph 1, of the Constitution explicitly stipulates that "the Constitution guarantees freedom of opinion and publication ...". Article 27 (c) further stipulates that "the State guarantees freedom of scientific research and shall encourage and reward outstanding ability and creative originality in all intellectual, scientific and artistic activities and all manifestations of talent among the people". These principles have been put into practice through, inter alia, the establishment of scientific research centres in and outside the universities and encouragement of the establishment of official and private publishing and printing houses.

73. The daily political press and periodicals are playing an effective and far-reaching role in social life, particularly since the lifting of all the restrictions that were imposed on reports by foreign newspaper and news agency correspondents due to the exceptional circumstances. For the first time in Iraq, a specialized newspaper bearing the name Human Rights is being published by the Iraqi Human Rights Association with a view to disseminating and promoting awareness and education in the field of human rights. In this context, symposia on human rights issues have also been held in various forums, including universities and the Judicial Academy.

Article 20

74. Iraqi legislation has adopted a firm position in regard to the danger of any propaganda for war or any advocacy of intercommunal conflict, discrimination, hostility or violence. A study of some of the provisions contained in articles 165, 170, 171, 175, 195, 198 and 200 of the Penal Code would clearly show that all forms of propaganda for war or advocacy of national, racial or religious hatred are prohibited and punishable and the law even regards some of them as prejudicial to the security of the State.

75. Iraq finds itself obliged to reaffirm its statement in the third periodic report to the effect that it has been the victim of a flagrant and systematic violation of this article of the Covenant since the war, which was provoked and launched by the coalition States, devastated the civilian and military economic infrastructure. Moreover, attempts are still being made to destroy the country's social and political structure by stirring up racial, intercommunal and religious bigotry among the Iraqi people with a view to interfering in the country's internal affairs and undermining its sovereignty and its national and territorial sovereignty and integrity. The violation of this article of the Covenant is clearly illustrated by the events that have occurred, and are still occurring, in most of the northern part of Iraq where the Autonomous Region has been removed from Iraqi sovereignty.

Article 21

76. Reference can be made to the information provided in the first periodic report concerning the subject-matter of this article of the Covenant. We wish to emphasize that article 26 of the Constitution guarantees freedom to assemble and demonstrate in accordance with the objectives of the Constitution

and within the limits of the law and the State is under an obligation to provide the facilities needed for the exercise of these freedoms. The Public Assembly and Demonstration Act No. 115 of 1959 contains legal provisions that recognize these freedoms, regulate their exercise and specify their limits.

Article 22

77. Reference can be made to Iraq's three previous periodic reports concerning this article of the Covenant. We wish to emphasize that article 26 of the Constitution guarantees freedom to form and join associations and trade unions. This right is also recognized in a number of legislative enactments concerning the formation of associations and trade unions for various professions and social, economic and educational activities.

Articles 23 and 24

78. Further to the previous periodic reports which confirmed that these rights were embodied in the principles enshrined in Iraq's Constitution and law concerning the protection of mothers and children, we wish to point out that Iraq ratified the Convention on the Elimination of All Forms of Discrimination against Women under the terms of Act No. 66 of 1986, which was published in the Official Gazette No. 3107 of 21 July 1986. Iraq also ratified the Convention on the Rights of the Child under the terms of Act No. 3 of 1994, which was published in the Official Gazette No. 3500 of 7 March 1994.

Article 25

79. The third periodic report gave an account of the developments in regard to the right of citizens to take part in the conduct of public affairs and indicated that citizens enjoyed the right to vote and stand as candidates in elections to the National Assembly. However, as a result of the continuation of the situation arising from the foreign military aggression and intervention in northern Iraq, the Autonomous Region of Iraqi Kurdistan comprising three governorates, namely Arbil, Sulaimaniya and Dohuk, has been removed from the administrative jurisdiction of the central authorities. This constitutes a violation of Iraq's sovereignty and territorial integrity. This state of affairs made it impossible to hold elections to the National Assembly and the Legislative Council of the Autonomous Region, the legal mandates of which had expired. Consequently, the National Assembly Act was amended by Act No. 25 of 1992, which empowered the President of the Republic to extend the mandate of the National Assembly, and the Legislative Council of the Autonomous Region Act was amended by Act No. 6 of 1993, which empowered the President of the Republic to extend the mandate of that Council.

80. In fact, Presidential Decree No. 408 of 15 February 1992 extended the mandate of the National Assembly for a period of two years and Presidential Decree No. 60 of 16 April 1993 likewise extended the mandate of the Legislative Council of the Autonomous Region for a two-year period. In spite of this difficult situation, the political leadership in Iraq felt that, in the higher national interest and in view of the need to address vital issues, endeavours should be made to ensure that these circumstances would not constitute an obstacle to the consolidation of democracy. Accordingly,

Revolution Command Council Decree No. 85 of 1995 promulgated an amendment to the Constitution under the terms of which the candidacy of any person standing for election to the post of President of the Republic of Iraq must be submitted to a popular referendum. In the referendum, which was held on 15 October 1995 and witnessed by hundreds of Arab and foreign journalists and correspondents of international news agencies and television stations in addition to a large number of political personalities, the overwhelming majority of the Iraqi people expressed their wish, in a completely free and democratic manner, to elect President Saddam Hussein as President of the Republic of Iraq for a seven-year term of office. Elections to the National Assembly are also due to be held in the first half of 1996 in accordance with the new National Assembly Act No. 26 of 1995, which was published in the Official Gazette No. 3597 of 27 December 1995.

81. During its third session beginning on 12 April 1989, the debating activities of the National Assembly in the field of laws and regulations were as follows:

(a) Thirty-five bills of law were debated and approved without amendment;

(b) Forty-five bills of law were debated and approved after the introduction of amendments;

(c) Four bills of law were debated and rejected;

(d) Sixteen bills of law were debated and shelved pending further consultations;

(e) Six draft ordinances were debated;

(f) Fifty-four paragraphs were debated and shelved pending further consultations.

82. During the period between the third and fourth periodic reports, the principal legislative developments in regard to exercise of the right to take part in the conduct of public affairs were as follows:

(a) Promulgation of the Referendum Act;

(b) Promulgation of the Local People's Councils Act No. 25 of 1995, which was published in the Official Gazette No. 3596 of 25 December 1995;

(c) Promulgation of the National Assembly Act No. 26 of 1995, which was published in the Official Gazette No. 3597 of 27 December 1995.

83. Anyone who views these democratic developments in the light of objective criteria and without ulterior motives will realize that they were earnest and effective. The public referendum concerning the post of President of the Republic, which was held on 15 October 1995 in the presence of a large number of official and unofficial press and political delegations from various countries throughout the world, led to the completely free and spontaneous election, by the people, of President Saddam Hussein as President of the

Republic. The above-mentioned National Assembly and Local People's Councils Acts confirmed that the cornerstone of Iraq's policy in the political field is to expand the base of popular participation in the exercise of authority through the representatives of the people and to provide the widest possible scope for citizens to participate directly in political life and local administration and to make an effective contribution to social development and progress without any discrimination on grounds such as religion, political or other opinion or social origin.

Article 27

84. Reference can be made to Iraq's third periodic report, which stated that persons belonging to minorities were enjoying their rights without any discrimination and that Iraq was endeavouring to further enhance those rights. With regard to the discussions that took place between the delegation of Iraq and the Human Rights Committee at the latter's 1107th meeting on 30 October 1991 concerning article 27 of the Covenant and the question of whether the application of this article should be discussed within the context of the right of peoples to self-determination, the delegation of Iraq emphasized the need to distinguish between the concept of the rights referred to in article 27 and the implications of the right of peoples to self-determination, as referred to in article 1 of the Covenant. General Comment 23 adopted by the Human Rights Committee at its fiftieth session in 1994 endorsed the viewpoint expressed by the delegation of Iraq concerning the need to distinguish between the right to self-determination and the rights referred to in article 27. Moreover, paragraph 3.2 of the same general comment indicated that the enjoyment of the rights recognized in article 27 should not prejudice the sovereignty or territorial integrity of any State party.

85. Since 1970, Iraq has been endeavouring to ensure that Kurdish Iraqi citizens enjoy their cultural and linguistic rights in the Autonomous Region of northern Iraq in which the autonomous institutions mentioned in the previous periodic reports were established. However, external intervention has flagrantly prevented Iraqi citizens from exercising their rights as guaranteed by the Constitution and this violation is still being systematically committed by the States that launched the attack on Iraq in 1991 such as, in particular, the United States of America and the United Kingdom. In actual fact, this situation, which is prejudicial to the sovereignty and the territorial unity and integrity of Iraq, enabled militias led by external forces to take control of the administration of the Autonomous Region and, after more than four years, this has engendered an atmosphere of instability characterized by internecine fighting between Kurdish armed factions the primary victims of which are usually innocent members of our Kurdish people.

86. The best way to enable the Iraqi Kurds to enjoy their rights is through positive dialogue, without any external interference, between the political leadership and the Kurdish leaders in such a way as to promote the human rights of all citizens within a united Iraq. Although the political leadership has repeatedly called for such a dialogue, it has been obstructed by external interference.